

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kelly Volpe,

Petitioner,

v.

CASE NO. 2:09-cv-790

Ginine Trim, Warden,

Respondent.

OPINION AND ORDER

The matter is before the court on petitioner's application for a certificate of appealability regarding this court's judgment of November 7, 2011, which dismissed petitioner's claims for habeas relief under 28 U.S.C. §2254. Section 2253(c) permits the issuance of a certificate of appealability only where a petitioner has made a "substantial showing of the denial of a constitutional right." Slack v. McDaniel, 529 U.S. 473, 483 (2000). Under the controlling standard, a petitioner must show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (quotation marks omitted). The court finds that this standard has been met in this case. Petitioner's application for a certificate of appealability as to this court's judgment of November 7, 2011, is hereby granted.

Date: December 7, 2011

s/James L. Graham
James L. Graham
United States District Judge